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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,506	03/09/2004	Jeffery M. Enright	D-1243	1933
28995	7590	04/08/2008	EXAMINER	
RALPH E. JOCKE	walker & jocke LPA	231 SOUTH BROADWAY	RAO, ANAND SHASHIKANT	
MEDINA, OH 44256			ART UNIT	PAPER NUMBER
			2621	
			MAIL DATE	
			04/08/2008	DELIVERY MODE
				PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/796,506	ENRIGHT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andy S. Rao	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 9/21/07.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-27 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-27 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Response to Arguments Presented in Pre-Brief Conference***

1. Applicant's arguments, see the Pre-Brief Conference Request, filed 9/21/07, with respect to claims 1-27 have been fully considered and are persuasive. The rejection of 1-27 under 35 U.S.C. 102(e) as being anticipated by Magee et al., (hereinafter referred to as "Magee"), as was set forth in the Office Action of 7/19/07 has been withdrawn.
2. However, after consideration of the arguments contained therein, the Examiner conducted a further analysis of the parent applications #10/601,950 and #09/414,249, particularly their respective specifications. It is duly noted that the scope of the claims 1-27 of the current instant invention are directed towards material not supported by the specification of those applications, and thus do not get the filing dates of those applications as effective dates for excluding relevant art. In particular, both applications are directed towards transaction data imaging at an ATM and not imaging of a ATM input interface such as a fascia or card reader as in the current application. Accordingly, the effective filing date of the instant invention of the application is 3/09/04 (i.e. its original filing date). A rejection based on newly discovered art follows.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Mair et al., (hereinafter referred to as “Mair”).

Mair discloses a method (Mair: figure 2) comprising: capturing with an imaging device (Mair: column 5, liens ), first image data corresponding to an image of at least a portion of a user interface of an automated banking machine that includes a cash dispenser (Mair: column 5, lines 45-55), and storing the first image data in at least one data store through operation of at least one processor (Mair: column 4, lines 60-65); subsequent to, capturing with the image device, second image data corresponding to an image of at least a portion of the user interface of the automated banking machine (Mair: column 4, lines 45-50); comparing the first image data and the second image data through operation of at least one processor to determine if there is at least a level of change between the first and second image data (Mair; column 4, lines 54-56); responsive to determining at least the level of change, taking at least one programmed action responsive to operation of the at least one processor (Mair; column 5, lines 1-18), as in claim 1.

Regarding claim 2, Mair discloses wherein the portion of the user interface includes a card accepting opening (Mair: column 5, lines 15-20), as in the claim.

Regarding claims 3-4, Mair discloses wherein the at least one response includes sending at least one message to at least one remote system address (Mair: column 5, lines 40-45), as in the claims.

Regarding claims 5-7, Mair discloses executing at least one test to determine if an unauthorized card reading device has been installed (Mair: column 5, lines 15-20), as in the claims.

Regarding claim 8, Mair discloses rendering the machine inoperative (Mair: column 5, lines 40-45), as in the claim.

Regarding claims 9-12, Mair discloses detecting at least one triggering event responsive to operation of the at least one processor, wherein the comparing is performed responsive to the triggering event (Mair: column 4, lines 40-47), as in the claims.

Regarding claim 13, Mair discloses wherein in the triggering event includes sensing opening of a shutter previously blocking a card accepting slot (Mair: column 4, lines 55-60), as in the claim.

Regarding claims 14-16, Mair discloses wherein the at least one triggering event includes an input to at least one key on the user interface of the machine at a time not appropriate in operation of the machine (Mair: column 5, lines 5-10), as in the claim.

Regarding claim 17, Mair discloses that the at least one triggering event includes the machine presenting cash to a user that is not taken by the user (Mair: column 4, lines 35-46), as in the claim.

Regarding claim 18, Mair discloses that the triggering event includes at least one user not taking a transaction receipt provided by the machine (Mair: column 4, lines 40-45), as in the claim.

Regarding claim 19, Mair discloses that the triggering event includes the machine being able to satisfactorily complete a plurality of transactions (Mair: column 5, lines 1-5), as in the claim.

Regarding claims 20-26, Mair discloses causing the at least one processor to execute at least one action in a programmed sequence corresponding to the triggering event (Mair: column 5, lines 15-26), as in the claims.

Regarding claim 27, Mair discloses an article bearing computer executable instructions operative to cause at least one processor to carry out the method as specified (Mair: column 3, lines 24-30), as in the claim.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Updike discloses a method of an operator handling a fault condition in an image based self-service check depositing terminal. Meskens discloses a near field presence detection device. Clark discloses a self service terminal.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (571)-272-7337. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571)-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andy S. Rao  
Primary Examiner  
Art Unit 2621

Asr  
/Andy S. Rao/  
Primary Examiner, Art Unit 2621  
March 31, 2008